

The Honorable John H. Chun

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC., *et al.*,

Defendants.

No. 2:23-cv-0932-JHC

STIPULATED MOTION TO FILE
UNDER SEAL EXHIBITS IN
SUPPORT OF DEFENDANTS'
OPPOSITIONS TO FTC'S MOTIONS
FOR SUMMARY JUDGMENT AND
TO EXCLUDE CERTAIN EXPERT
WITNESS TESTIMONY

NOTE ON MOTION CALENDAR:
June 17, 2025

Pursuant to Local Civil Rule 5(g), Plaintiff Federal Trade Commission ("Plaintiff" or "FTC") and Defendants Amazon.com, Inc. ("Amazon"), Jamil Ghani, Russell Grandinetti, and Neil Lindsay respectfully stipulate and jointly move the Court to seal certain parts of documents cited in Defendants' Opposition to Plaintiff's Motion for Summary Judgment (the "MSJ Opposition") and Defendants' Oppositions to Plaintiff's Motions to exclude certain testimony of Defendants' proposed expert witnesses (the "*Daubert* Oppositions") (collectively, the "Oppositions"). In support of this Stipulated Motion, Plaintiff and Defendants state as follows.

1. On June 17, 2025, Defendants filed under seal unredacted versions of the Oppositions, the accompanying Omnibus Declaration of Joseph A. Reiter ("Reiter Declaration"),

1 and accompanying exhibits in support of the Motions. Defendants have also filed redacted, public
2 versions of these materials.

3 2. The FTC and Defendants jointly move to seal materials cited in the Oppositions,
4 which are identified in the chart below and attached to the Reiter Declaration. The proposed sealed
5 portions are highlighted in blue in the exhibits attached to the unredacted Reiter Declaration filed
6 under seal.

7 3. The Court's Protective Order (Dkt. 124 ¶ 5.4) and Local Rule 5(g)(3)(B) require that
8 the Party seeking to file information under seal provide (1) a statement of the applicable legal
9 standard, (2) the legitimate private or public interests that warrant the relief sought, (3) the injury
10 that will result if the relief sought is not granted, and (4) why a less restrictive alternative to the
11 relief sought is not sufficient. Defendants submit paragraphs 4–7 in accordance with these
12 requirements.

13 4. A party seeking to seal documents attached to a non-dispositive motion need only
14 show “good cause” to keep the documents from public view because “the public has less of a need
15 for access to court records attached only to non-dispositive motions.” *Kamakana v. City & Cnty. of*
16 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006); *Center for Auto Safety v. Chrysler Group, LLC*,
17 809 F.3d 1092, 1097 (9th Cir. 2016) (“good cause” standard applies to non-dispositive motion
18 unrelated to the merits of the case). The Motions to Exclude are non-dispositive motions. To show
19 good cause, the moving party must articulate a specific harm that would occur if the subject
20 information was made public. *See Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir.
21 2002). The Court may seal documents attached to dispositive motions when a party provides a
22 compelling reason to keep information out of public view. *Kamakana*, 447 F.3d at 1178. Under
23 the heightened “compelling reasons” standard, courts have long recognized that “business
24 information that might harm a litigant’s competitive standing” should be sealed. *See, e.g., Nixon v.*
25 *Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

26 5. Amazon’s legitimate business interests warrant the relief sought. Defendants seek to
27 seal only limited confidential business information, such as internal metrics and proprietary internal

analyses, similar to those described in Amazon's declaration in support of its earlier motion to seal. *See* Dkt. No. 42. This Court granted a motion to seal similar information under a heightened "compelling reasons" standard in this case. *See* Dkt. No. 79. This Court also granted a motion to seal similar information under the "good cause" standard applicable to discovery motions. *See* Dkt. No. 164. The limited information that Defendants seek to seal thus easily satisfies the applicable "good cause" and "compelling reason" standard. For the Sealed Material, Defendants further take the following positions:

Document	Proposed Seal	Defendants' Position
Expert Report of Dr. Ran Kivetz (Exhibit 61 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00034290 (Exhibit 79 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00021537 (Exhibit 80 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00027881 (Exhibit 82 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN-PRM-FTC-002381012 (Exhibit 84 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
Balakrishnan Deposition Transcript, p. 253-254 (Exhibit 105 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
Ghani IH Transcript, p. 160 (Exhibit 111 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00028478 (Exhibit 119 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.

Document	Proposed Seal	Defendants' Position
AMZN_00101499 (Exhibit 122 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00101500 (Exhibit 123 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00102509 (Exhibit 124 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN_00113643 (Exhibit 125 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
AMZN-PRM-FTC-002620178 (Exhibit 126 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
Mahoney Deposition Transcript, p. 102-103 (Exhibit 132 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.
Rebuttal Expert Report of Dr. Ran Kivetz (Exhibit 134 to Reiter Declaration)	Redactions (highlighted in blue in sealed filing)	Proposed redactions are necessary to protect highly sensitive commercial information.

6. As explained in Amazon's original motion to seal similar information, which the Court granted, the public release of this information would harm Amazon's competitive position. *See* Dkt. No. 41. The risk of Amazon's competitors using this commercially sensitive information to their own advantage significantly outweighs any limited public interest in public disclosure of these few discrete pieces of information. *See, e.g., McCrary v. Elations Co. LLC*, 2014 WL 12589137, at *6 (C.D. Cal. Dec. 2, 2014) (sealing internal clinical studies and consumer surveys because "disclosure of these documents could benefit Defendant's competitors and reduce any business advantage that Defendant currently possesses").

7. There is no less restrictive alternative to sealing the discrete pieces of information that Defendants have identified. Defendants have applied only limited redactions. This approach is aligned with the previous redactions and sealed filings that Amazon sought and this Court granted. *See, e.g.,* Dkts. 41, 79, 164, 219, 233, 253, 267.

8. The FTC stipulates to filing under seal the documents or portions of documents identified above. It takes no position as to Defendants' assertions in paragraphs 4–7 above.

9. Pursuant to Local Rule 5(g)(3)(A), undersigned counsel certify that they met and conferred by email on June 17, 2025 to reach the agreement described in this stipulated motion.

10. Based on the foregoing, the parties respectfully request that the Court grant this stipulated motion through entry of the attached Proposed Order.

IT IS SO STIPULATED.

Undersigned counsel certify that this memorandum contains 1,092 words, in compliance with the Local Civil Rules.

DATED this 17th day of June, 2025.

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